Department of Justice

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MINNESOTA MAN PLEADS GUILTY TO RUNNING PONZI SCHEME

WASHINGTON - A Rosemount, Minn., man has pleaded guilty in connection with running a Ponzi scheme involving commodity pools, Acting Assistant Attorney General Rita M. Glavin and U.S. Attorney Frank J. Magill for the District of Minnesota announced today.

Charles "Chuck" E. Hays, 56, pleaded guilty before U.S District Court Judge Donovan Frank on April 14, 2009, in St. Paul, Minn., to one count of mail fraud, one count of wire fraud, and one count of structuring transactions to avoid financial reporting requirements. Hays was arrested Feb. 5, 2009, and charged in a criminal complaint with mail fraud and wire fraud. Shortly after Hays' arrest, the government seized a $3 million yacht Hays purchased with investor funds, as well as two of Hays' bank accounts, which contain approximately $1 million in funds obtained through the fraudulent scheme. The government estimates in court documents that investors lost more than $20 million in the scheme.

According to the plea agreement, Hays admitted to devising and participating in a scheme in which he solicited individuals to invest money with him and his company, Crossfire Trading LLC (Crossfire), from January 2001 through February 2009. Hays told potential investors he was a day trader in stock index futures and other futures contracts. Hays also admitted falsely representing to potential investors that his trading was consistently profitable and earned approximately three percent per month. According to court documents, many people chose to invest money with Hays and Crossfire based on these misrepresentations.

Once an individual invested money, Hays admitted he provided the investor with a document that outlined the purported terms of the agreement with Crossfire. Hays admitted the investment agreements misrepresented the goal and activities of Crossfire and how investor profits and losses would be handled. According to the investor agreements, Crossfire was falsely presented as a day-trading company whose primary activity was short-term trading of futures. However, instead of using investor funds to trade in the equities listed in the investor agreement, Hays admitted he diverted and converted those funds for his personal use and other unauthorized purposes.

Hays also admitted that he instructed investors to mail him a check or to wire money to Crossfire's bank account. Hays admitted he then created and sent investors fraudulent monthly summaries purportedly showing investments and any gains clients supposedly realized.

When investors asked Hays for details regarding his trading or investment philosophy, Hays admitted he misrepresented to them that Crossfire traded through an account at a registered brokerage firm in Chicago, where he said investors' funds were maintained. To support those misrepresentations, Hays admitted he showed several investors a fraudulent statement that reflected a $37 million balance in Crossfire's account at the registered brokerage firm, when in reality Crossfire did not have an account with the firm. According to court documents, Hays used funds received from new investors to make payments to earlier investors in order to give legitimacy to the scheme.

At sentencing, Hays faces a maximum penalty of 20 years in prison on the mail fraud count, 20 years on the wire fraud count and 10 years on the structuring count. Hays also faces a maximum fine of $250,000 or the greater of twice the gross gain or loss for both the mail and wire fraud counts and a maximum fine of $500,000 on the structuring count. Additionally, as part of the plea agreement, Hays has agreed to forfeit all assets that constitute the proceeds of his offenses. A sentencing date has not yet been scheduled.

In a related action, the U.S. Commodity Futures Trading Commission (CFTC) filed a civil enforcement action against Hays and Crossfire on Feb. 5, 2009.

The case was investigated by the U.S. Postal Inspection Service. The case is being prosecuted by Assistant Chief Robertson Park and Trial Attorney Laura Perkins of the Criminal Division's Fraud Section and Assistant U.S. Attorney Ann Anaya for the District of Minnesota. Significant assistance was also provided by Assistant U.S. Attorney Jim Alexander for the District of Minnesota. The Department acknowledges the substantial assistance provided by the CFTC in connection with this investigation.

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